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BY EMAIL AND WEB POSTING

October 14, 2015

NOTICE OF REVISED PROPOSAL TO AMEND A CODE

REVISED PROPOSED AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE

BOARD FILE NO.: EB-2015-0006

**To: All Licensed Electricity Distributors
All Participants in Consultation Process EB-2009-0095
All Participants in Consultation Process EB-2015-0006
All Other Interested Parties**

The Ontario Energy Board (OEB) is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* of revised proposed amendments to the Distribution System Code (DSC).

A. Background

On February 20, 2015, the OEB issued a Notice of Proposal to Amend a Code (the February 20th Notice) in which it proposed to amend the DSC (the February Proposed Amendments).

As noted in the February 20th Notice, the purpose of the proposed revisions to the DSC is to set out the criteria under which all load transfer arrangements would be eliminated. The principles underlying those criteria are minimizing the impacts on the load transfer customers and avoiding unnecessary costs being imposed on consumers due to an uneconomic distribution system expansion by a geographic distributor for the sole purpose of connecting load transfer customers.

Under the February Proposed Amendments, the OEB proposed to delete sections 6.5.3, 6.5.4, 6.5.4.1, 6.5.4.2, and 6.5.5 from the DSC and replace them with the following new sections.

- Where the elimination of a load transfer arrangement would result in the load transfer customer receiving a *reduction* in distribution charges by transferring the load transfer customer to the physical distributor, the load transfer customer (i.e., the property associated with the load transfer customer) would need to be transferred to the existing physical distributor within six months of these amendments coming into force through a service area amendment licence application (proposed new section 6.5.3).
- Where the transfer of a load transfer customer to the physical distributor would result in an *increase* in distribution charges, the load transfer customer would remain a customer of the geographic distributor until there is a change in ownership of the account; e.g., the current customer closes the account and a new customer opens a new account. Upon such a change in account, the property associated with the account would need to be transferred to the physical distributor (proposed new section 6.5.4).
- One distributor would be accountable for submitting the service area amendment (SAA) licence application under both of the proposed new sections discussed above. That obligation would be placed on the geographic distributor since it would have all the necessary account information related to the load transfer customer.
- Physical distributors would be required to provide service to existing load transfer customers, under the load transfer arrangement, until the load transfer customer is transferred to the physical distributor's service area (proposed new section 6.5.5).
- Distributors would not be permitted to enter into any new load transfer arrangement (proposed new section 6.5.6).

The OEB received and reviewed 12 written comments on the February 20th Notice from a variety of stakeholders, including distributors and consumer groups. Those comments are available on the OEB's web site at www.ontarioenergyboard.ca. A summary of

some of the stakeholder comments received in relation to the various issues addressed in this Notice has been included in the discussion below. For further detail, please refer to the comments themselves.

B. Revised Proposed Amendments to the DSC

The full text of the revised proposed amendments to the DSC is set out in Attachment A to this Notice. Attachment B sets out, for informational purposes, a comparison of the revised proposed amendments to the originally proposed amendments.

The focus of most stakeholder concerns was related to the February Proposed Amendment to section 6.5.4 associated with the load transfer customer remaining with the geographic distributor until there is a change in ownership of the account. Those concerns were related to implementation issues, high administrative costs and the potential for unintended consequences. The following sets out some of the specific concerns identified:

- It would necessitate a separate application, for each load transfer customer facing a rate increase, which would need to be prepared by the distributor and then reviewed and approved by the OEB. It would therefore result in over 1,000 SAA licence amendment applications;
- Assets would need to be transferred to the physical distributor along with the load transfer customer. However, in some cases, there would be assets that serve customers remaining with the geographic distributor and customers being transferred to the physical distributor;
- It could be decades before a change in account occurred. Where that was the case, the load transfer customer would need to be tracked by the distributor over that period of time;
- It would perpetuate the existence of load transfer arrangements for many years, which would be contrary to the OEB's intent; and
- There could be unintended consequences if the transfer is based on a change in account since account changes are not necessarily limited to a customer moving out (i.e., closing the account) and a new customer moving in (i.e., opening a new account). For example, it was identified a change in account could occur for other reasons such as a divorce or death of a spouse.

A distributor and a consumer group both recommended an alternative approach in cases where the transfer of the customer to the physical distributor would result in a bill

increase. That alternative approach involves shifting all load transfer customers at the same time and applying rate mitigation.

In response to stakeholder comments, the OEB agrees with the suggested change in approach discussed above and is therefore proposing that all load transfer customers be transferred at the same time and apply rate mitigation, where needed. As a result of this proposed change, the OEB established a working group to provide input on an approach to rate mitigation for this specific purpose. The OEB's proposed approach to rate mitigation, which reflects input from the working group, is further discussed in section C of this Notice.

Another concern raised by a number of stakeholders related to the February Proposed Amendments was the period of six months to eliminate all load transfers. It was noted that six months did not provide enough time for distributors primarily due to the need to identify and value the assets that must be transferred to the physical distributor and then prepare applications for OEB approval. This issue is most relevant to Hydro One Networks (Hydro One) which currently has load transfer arrangements with approximately 50 other distributors. The OEB is persuaded that more than six months will be required and is proposing to increase the timeline to 18 months.

It was also suggested by a distributor that the basis for determining whether the transfer will result in a bill increase or decrease for the load transfer customer should be the *delivery* charge rather than the *distribution* charge. A reason identified for this suggested change was that some distributors own the transformation assets while others distributors do not. Those distributors that own the transformation assets have lower transmission connection charges and lower line losses. As a result, the use of the distribution charge would not always result in an apples-to-apples comparison and a lower distribution charge would not necessarily result in a lower total bill. On the other hand, the use of the delivery charge would address this issue as it encompasses both distribution and transmission assets and the associated charges. The OEB agrees with this suggested change. The OEB notes another reason for proposing to adopt this change is distributors also currently have a different mix of fixed and volumetric distribution charges which would make the comparison somewhat complicated. Use of the delivery charge would eliminate that complication since all delivery charges are expressed in volumetric terms.

It was also noted by a distributor that load transfer elimination activities should not hinder distribution sector consolidation activities. For example, it was suggested that a

physical and geographic distributor that have a load transfer arrangement should be exempt from any load transfer elimination activities if they are currently before the OEB for approval of a Mergers, Acquisitions, Amalgamations and Divestitures (MAADs) application or have obtained MAAD approval. It was noted this approach would enable the elimination of load transfers under the MAADs process already underway and avoid the potential for affected load transfer customers to be transferred twice. The OEB agrees resources should not be expended on load transfer elimination activities where a MAADs application has been submitted or approved within the proposed 18 month timeline as the merger would eliminate the load transfers. In such cases, a request for an exemption can be made by distributors as part of the applicable MAADs application.

It was also suggested that the February Proposed Amendment which placed the onus on one distributor to submit the SAA application should be revised to require a joint application as that would reduce the number of applications. The OEB remains of the view that the onus should remain with the geographic distributor for accountability purposes. As discussed in the February 20th Notice, placing that obligation on the geographic distributor would not preclude a physical distributor from submitting an application. The OEB notes it would also not preclude a joint application being submitted by the physical and geographic distributor. In fact, the OEB encourages the filing of joint applications.

As identified in the February 20th Notice, once the proposed DSC amendments are finalized, streamlined filing guidelines will be issued separately for combined SAA and asset transfer applications involving the elimination of load transfer arrangements.

C. Proposed Approach to Rate Mitigation

As noted above, the OEB established a working group comprised of stakeholders that commented on the proposed DSC amendments issued on February 20th to provide input on a rate mitigation approach for load transfer customers facing a bill increase.

The four primary design elements that the working group addressed are set out below:

- 1) Form of mitigation; i.e., credit or negative rate rider;
- 2) Length of time rate mitigation should apply;
- 3) Whether a threshold should apply to determine which load transfer customers facing a bill increase should not receive rate mitigation; and
- 4) Which distributor – physical or geographic – should fund the rate mitigation.

The following sets out the OEB's proposed approach. It takes into consideration input provided by the working group and the intent to remain as consistent as possible with outcome associated with the OEB's initial proposal; i.e., no negative bill impacts for any load transfer customers at any time.

The OEB proposes that full rate mitigation be applied until there is a change in account involving the load transfer customer moving. While the working group suggested rate mitigation be time limited (e.g., views ranged from two to five years), the OEB continues to believe load transfer customers should not be exposed to any bill increase due to an arrangement made between two distributors many years ago. This is consistent with the OEB's initial proposed approach where the outcome would have been no negative bill impact for any load transfer customer.

As discussed above, certain distributors identified a concern related to basing such requirements on a change in account. It was noted that they are currently unable to easily identify the reason for an account change. The OEB notes there are only about 1,000 customers that would be exposed to a rate increase due to load transfer elimination and, therefore, subject to a determination of when rate mitigation would need to be removed. The OEB expects it will be rare that such a small number of customers will have a change in account due to the other reasons identified in the comments that are not related to a load transfer customer moving. The OEB is therefore confident distributors would be able to manage the issue. In addition to removing rate mitigation due to an account change triggered by the account holder(s) moving out, the OEB believes the proposed monthly credit should also be removed where it involves the applicable dwelling being inherited; i.e., the OEB does not believe rate mitigation should be passed down in perpetuity from generation to generation. However, if the change in account is due to the reasons identified in the comments, such as a divorce or the death of a spouse (i.e., load transfer customer continues to reside in the dwelling), the OEB believes rate mitigation should remain in place.

A monthly credit is proposed rather than a negative rate rider. As identified by the working group, this proposed approach would avoid implementation costs and time as there would be no need to make billing system changes for a small number of customers. In contrast, a rate rider would require billing system changes. A credit also avoids complications with the planned move to a fully fixed distribution charge. The OEB also agrees with the working group that a *monthly* credit is more consistent with rate mitigation than a lump sum *annual* credit. The OEB expects that the credit can be

included in an existing line item to avoid the need for bill format changes.

Various options were supported by the working group members in relation to applying a threshold for rate mitigation purposes; e.g., 10% on total bill, 5% on total bill, no threshold. The OEB is proposing an approach whereby no threshold would be applied. All load transfer customers receiving rate mitigation is consistent with the OEB's initial proposed amendment under which bill impacts would have been avoided for all load transfer customers. In addition, the primary reason for a threshold is to avoid unnecessary administrative burden for the distributor. Based on bill impact estimates provided by Hydro One as part of the working group process, if a 10% threshold were to be applied, essentially no administrative burden would be avoided. For example, under an extreme scenario where all load transfer customers were placed in Hydro One's R1 rate class, only about 30 of over 1,000 (0.03%) customers would fall under the 10% threshold. At the other end of the spectrum, if all customers were placed in Hydro One's R2 rate class, there would be no load transfer customers below the 10% threshold. There would also be only one calculation for distributors to make at the outset for each load transfer customer under the OEB's proposed approach – credit based on the delivery charge differential in the approved SAA application.

There was not working group agreement regarding which distributor should fund the rate mitigation. The OEB proposes that the physical distributor fund it for the following reasons. The physical distributor will be receiving the new customers, the associated future distribution rate revenues and an increase in rate base. The opposite will occur for the geographic distributor.

D. Anticipated Costs and Benefits

The anticipated costs and benefits of the February Proposed Amendments were set out in the February 20th Notice. Interested parties should refer to the February 20th Notice for further information in that regard.

The OEB believes that the Revised Proposed Amendments will reduce the administrative burden and associated costs for distributors relative to the February Proposed Amendments. The OEB does not believe that the Revised Proposed Amendments will result in material incremental costs for distributors or ratepayers relative to the costs associated with implementation of the February Proposed Amendments.

E. Coming into Force

As was the case with the February Proposed Amendments, the OEB proposes that the Revised Proposed Amendments, as set out in Attachment A, come into force on the date that the final DSC amendments are published on the OEB's website after having been made by the OEB.

F. Cost Awards

Cost awards will be available under section 30 of the Act to eligible persons in relation to the provision of comments on the revised proposed DSC amendments set out in this Notice. Cost awards will be available to a **maximum of 5 hours** per eligible participant, and will be recovered from all rate-regulated licensed electricity distributors.

G. Invitation to Comment

All interested parties are invited to submit written comments on the Revised Proposed Amendments, as set out in Attachment A, by **October 28, 2015**.

Three (3) paper copies of each filing must be provided, and should be sent to:

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, Ontario, M4P 1E4

The OEB requests that interested parties make every effort to provide electronic copies of their filings in searchable/unrestricted Adobe Acrobat (PDF) format, and to submit their filings through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. A user ID is required to submit documents through the OEB's web portal. If you do not have a user ID, please visit the "e-filings services" webpage on the OEB's website at www.ontarioenergyboard.ca, and fill out a user ID password request. Additionally, interested parties are requested to follow the document naming conventions and document submission standards outlined in the document entitled "RESS Document Preparation – A Quick Guide" also found on

the e-filing services webpage. If the OEB's web portal is not available, electronic copies of filings may be filed by e-mail at boardsec@ontarioenergyboard.ca

Those that do not have internet access should provide a CD containing their filing in PDF format.

Filings to the OEB must be received by the Board Secretary by **4:45 p.m.** on the required date. They must quote file number **EB-2015-0006** and include your name, address, telephone number and, where available, your e-mail address and fax number.

If the written comment is from a private citizen (i.e., not a lawyer representing a client, not a consultant representing a client or organization, not an individual in an organization that represents the interests of consumers or other groups, and not an individual from a regulated entity), before making the written comment available for viewing at the OEB's offices or placing the written comment on the OEB's website, the OEB will remove any personal (i.e., not business) contact information from the written comment (i.e., the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the written comment will be available for viewing at the OEB's offices and will be placed on the OEB's website.

This Notice, including the Revised Proposed Amendments to the DSC set out in Attachment A, and all written comments received by the OEB in response to this Notice will be available for public viewing on the OEB's web site at www.ontarioenergyboard.ca and at the office of the OEB during normal business hours.

If you have any questions regarding the Revised Proposed Amendments described in this Notice, please contact Chris Cincar at Chris.Cincar@OntarioEnergyBoard.ca or at 416-440-7696. The OEB's toll free number is 1-888-632-6273.

DATED at Toronto, October 14, 2015

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Attachments:

Attachment A — Revised Proposed Amendments to the Distribution System Code

Attachment B — Comparison Version of Revised Proposed DSC Amendments relative to the DSC Amendments proposed on February 20, 2015 (for information purposes only)

Attachment A
to
Notice of Revised Proposed Amendments to the
Distribution System Code

October 14, 2015

EB-2015-0006

Revised Proposed Amendments to the Distribution System Code

Note: The text of the revised proposed amendments is set out in italics below, for ease of identification only.

1. Sections 6.5.3, 6.5.4, 6.5.4.1, 6.5.4.2, and 6.5.5 of the DSC are revoked and replaced with the following:

*6.5.3 All load transfer arrangements shall be eliminated by transferring the load transfer customers to the physical distributor by **[insert date of 18 months after coming into force of amendments]**. The geographic distributor shall apply to the Board for a service area amendment to the necessary licence(s) to effect the transfer.*

6.5.4 If the transfer to the physical distributor results in the load transfer customer(s) paying higher delivery charges, the physical distributor shall apply rate mitigation in a manner that is approved by the Board.

6.5.5 Until such time as the load transfer arrangement is eliminated under section 6.5.3, the physical distributor shall be obligated to continue to service an existing load transfer customer.

6.5.6 A distributor shall not enter into any new load transfer arrangements.

Attachment B
to
Notice of Revised Proposed Amendments to the
Distribution System Code

October 14, 2015

EB-2015-0006

Comparison Version of Revised Proposed DSC Amendments
relative to the DSC Amendments proposed on February 20, 2015
(for information purposes only)

1. Sections 6.5.3, 6.5.4, 6.5.4.1, 6.5.4.2, and 6.5.5 of the DSC are revoked and replaced with the following:

6.5.3 ~~Where the elimination of the load transfer arrangement, by transferring the load transfer customer(s) to the physical distributor, will result in the load transfer customer(s) paying lower distribution charges the load transfer customer(s) shall be transferred to the physical distributor. All load transfer arrangements shall be eliminated by transferring the load transfer customers to the physical distributor by [insert date of six 18 months after coming into force of amendments].~~ The geographic distributor shall apply to the Board for a service area amendment to the necessary licence(s) to effect the transfer.

6.5.4 ~~Where the elimination of the load transfer arrangement will result in the load transfer customer(s) paying higher distribution delivery charges, the physical distributor shall apply rate mitigation in a manner that is approved by the Board. the load transfer customer(s) shall be transferred to the physical distributor [insert date of six months after coming into force of amendments] and, the load transfer customer(s) shall remain a customer of the geographic distributor until such time as the customer account changes. Once a new customer account is opened, the load transfer arrangement must be eliminated by transferring the new customer to the physical distributor. The geographic distributor shall apply to the Board for a service area amendment to the necessary licence(s)~~

~~to effect the transfer.~~

6.5.5 *Until such time as the load transfer arrangement is eliminated under section 6.5.3 ~~or 6.5.4~~, the physical distributor shall be obligated to continue to service an existing load transfer customer.*

6.5.6 *A distributor shall not enter into any new load transfer arrangements.*